IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Madhu Sudan & ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 848/2006
for quashing the criminal proceedings.
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Date of Order: September 20, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Vijay Purohit, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Pradeep Shah, for the first informant.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioners seek quashing of criminal proceedings in C.R. No. 14/2003, Police Station, Mahila Thana, Bikaner pending in the Court of the Additional Chief Judicial Magistrate No.2, Bikaner (for short, "the trial Court" hereinafter) for the offences under Sections 498-A and 406 IPC.

I have heard learned counsel for the petitioners, Public Prosecutor for the State and the counsel for the first informant. Carefully gone through the first information report and the statements of witnesses recorded under Section 161 of

the Code.

The facts and circumstances giving rise to the instant petition are that the first informant/non-petitioner No.2 filed a written report before the Deputy Superintendent of Police (City), Bikaner for registering an FIR against the persons named therein, viz. Girdhar Bangad, Raj Gopal Bangad, Sridhar Bangad, Padma Jain, Rajesh Kumar Jain, Prabha Mohta, Sri Kishan Mohta, Santosh Muda, Dinesh Muda, Smt. Rajesh, Sushil, Smt. Meenakshi Rathi, Pawan Rathi, Seema Mohta, Shyam Mohta, Madhu Sudan Bangad and Shashi Bangad, alleging therein that she married to petitioner No.3 Girdhar Bangad S/o petitioner No.6 Raj Gopal Bangad on 30-11-2000 according to Hindu rites at Deedwana, district Nagaur. Certain goods and ornaments were given by her parents at the time of her marriage. After sometime of the marriage, she went with her husband to Indore (M.P.) and started living there. On 29-9-2002, she along with her husband, was returning to Deedwana. On the way, her husband stated that her father has not given a car and cash and, therefore, he would not take her to Deedwana and left her at Ajmer. It is alleged that her husband caught hold her hair and pushed her, leaving her at Ajmer. She telephoned her brother, who came to Ajmer and she went with her brother to Bikaner. Thereafter her brother went to Deedwana and there also, her in-laws and the persons named above, did not agree to keep her

and demanded a Maruti car and a sum of Rs. 5 lac. Her brother demanded the articles and ornaments given to his sister (first informant/non-petitioner No.2) at the time of her marriage; however, instead of returning the articles and ornament, they stated that they have already distributed the ornaments etc. amongst them. On this report, the police registered a crime report and ensued the investigation. After investigation, the police filed the Challan under Sections 498-A and 406 IPC against the present petitioners. Hence this criminal miscellaneous petition.

It is contended by the learned counsel for the petitioners that after the marriage of the first informant/non-petitioner No.2, she went to Indore along with her husband where her husband was residing and for number of years, they resided there. It is an admitted case of the non-petitioner No.2 that while returning from Indore, on the way she was left at Ajmer by her husband petitioner No.3 and thereafter she never came to her in-laws house and, therefore, there was no question of subjecting her to cruelty or demanding the dowry. Whatever has happened, it was between her and her husband and the other members of in-laws family have been falsely roped in the case. As many as 18 persons have been named in the FIR, many of them even do not reside at Deedwana and even according to the first informant/non-petitioner No.2, they are residing at

Indore, Nagpur, Kishangarh and Kolkatta. In the report submitted by the first informant to the Deputy Superintendent of police, Bikaner, she herself mentioned the addresses of some of the persons, namely Padma Jain and Rajesh Kumar Jain as the residents of Smrati Nagar, Indore; Prabha Mohta and Sri Kishan Mohta as the residents of 22-Kee Road, Second Floor, Kolkatta; Santosh Muda and Dinesh Muda as the residents of Basera AC Block, Bangad Avanue, Kolkatta; Meenakshi Rathi and Pawan Rathi as the residents of Vishnupur Radio Service, Rathi Gali, Vishnupur (West Bengal); Seema Mohta and Shyam Mohta as the residents of 27, Hiwadi Lay, Out Vardhman Nagar, Nagpur; and Madhu Sudan Bangad and Shashi Bangad as the residents of Kishangarh. According to the learned counsel for the petitioners, from the averments made in the first information report, it nowhere appears that they ever subjected the first informant/non-petitioner No.2 to cruelty or harassment or made any illegal demand of dowry. No occasion has been shown when all these persons met to the first informant. Without there being any allegation, the first informant has falsely roped all the family members of her in-laws and, therefore, to allow the proceedings on such a report is nothing but an abuse of process of the Court. Learned counsel for the petitioners further submits that so far as offence under Section 406 IPC is concerned, it is not the case of the first informant that she ever demanded her “Istridhan” and it

is her specific case that her brother demanded the same, who is not the owner of the property and, therefore, the offence under Section 406 IPC is not made out.

Learned counsel for the first informant/non-petitioner No.2 has supported her case.

In the statement of the first informant recorded by the police on 21-2-2003 under Section 161 of the Code, she has stated that on the day of marriage itself, her husband started taunting her by saying that he was expecting a Maruti car and a sum of Rs.5 lac in dowry and on this, her husband started harassing her. Her husband also scolded her brother Nauratan on telephone by saying that less dowry has been given and demanded a Maruti car and Rs.5 lac in cash, else to take her sister back. Her statement further goes to show that her husband demanded Rs. 5 lac and a Maruti car and when she used to visit to her parental house, she used to say that her husband is demanding Rs.5 lac and a Maruti car. She remained at Deedwana for 1 ¼ years and during that period, her husband used to harass her in connection with demand of Maruti car and Rs.5 lac. She further stated that her father-in-law, petitioner No.6, is a disabled person and who is unable to move, sometimes used to demand to bring Rs. 5 lac from her parents else they would not keep her. She stated that her brother-in-law Sridhar, petitioner No.4, is residing and working at Kolkatta and

seldom used to come to Deedwana; however, he neither demanded the dowry, nor caused any harassment to her. After 1 ½ years of the marriage, her husband took her to Indore and thereafter she, along with her husband, continued to live at Indore. On reaching Indore, her husband started harassing her and demanded a Maruti car and Rs.5 lac. She stayed for five to six months at Indore and on 29-9-2002, she along with her husband, was returning from Indore to Deedwana and when they reached to Ajmer, her husband demanded Rs.5 lac and a Maruti car and did not take her to Deedwana but left her at Ajmer and her husband alone went to Deedwana. She telephoned her brother Nauratan from Ajmer, who came and she went with her brother to her parental house at Bikaner.

From the statement of the first informant, it appears that by and large, allegations of cruelty, harassment or demand of dowry are mainly against her husband petitioner No.3 Girdhar and to some extent, regarding demand of dowry, against her father-in-law petitioner No.6 Raj Gopal. So far as the other petitioners are concerned, she categorically stated that she was neither harassed nor subjected to cruelty by them. Thus, in her statement, she mainly set up the case against her husband petitioner No.3 Girdhar and even if her statement is taken as a whole then on a solitary occasion, her father-in-law petitioner No.6 Raj Gopal demanded a sum of Rs.5 lac. So far as other

petitioners are concerned, she has categorically stated in her earlier statement that neither they harassed her, nor demanded dowry. However, it appears that some supplementary statement was recorded after filing of the report with the Deputy Superintendent of Police on 17-2-2003, i.e. almost after two months, wherein she stated that the petitioner No.1 Madhu Sudan and his wife petitioner No.2 Smt. Shashi, who are residents of Kishangarh, have a say in their family affairs. However, she categorically stated that they have been residing at Kishangarh.

So far as other petitioners are concerned, even in the report itself, the first informant stated that many of them are residing at Kolkatta in different localities, some are residing at Indora and some at Nagpur.

On careful perusal of the material on record, in my view, there is hardly any evidence connecting the other petitioners, except petitioners No.3 and 6, who are living in different parts of the country and, therefore, the proceedings against petitioners No. 1 Madhu Sudan, petitioner No.2 Smt. Shashi, petitoiner No.4 Sridhar, petitioner No.5 Prabha are nothing but an abuse of process of the Court and, therefore, in order to secure ends of justice, in my view, the proceedings against petitioners No.1 and 2, who are residents of Kishangarh, and petitioners No.4 and 5 who are residents of Kolkatta,

deserve to be quashed.

In the result, the criminal miscellaneous petition is partly allowed. The petition filed by petitioner No.3 Girdhar and petitioner No. 6 Raj Gopal is dismissed. However, the petition filed by petitioners No.1 Madhu Sudhan, petitioner No.2 Smt. Shashi, petitioner No.4 Shridhar and petitioner No.5 Prabha is allowed and the criminal proceedings against them in C.R. No.14/2003, Police Station, Mahila Than, Bikaner, pending in the Court of Additional Chief Judicial Magistrate No.2, Bikaner are quashed. The stay petition stands disposed of.

(H.R. PANWAR), J.

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